

Juridical Analysis Of Human Rights Protection For Indonesian Migrant Workers Shipped Illegally (Research Study At The Riau Islands Police Directorate)

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Juridical Analysis Of Human Rights Protection For Indonesian Migrant Workers Shipped Illegally (Research Study At The Riau Islands Police Directorate)

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Abstract. *This research focuses on "Juridical Analysis of Human Rights Protection of Indonesian Migrant Workers Sent Illegally (Research Study at the Directorate of Criminal Investigation of the Riau Islands Police)". The background of this study is based on the increasing number of cases of Indonesian migrant workers being sent illegally in the Riau Islands, a region that has an important role as an exit point for many migrant workers abroad. This reflects the urgent need to examine the extent of the effectiveness of the law and human rights protections provided to migrant workers. The purpose of this study is to analyze and evaluate the effectiveness of the implementation of human rights protection for illegally sent migrant workers, as well as to identify obstacles and solutions in the implementation of such protection by the Riau Islands Police Directorate of Criminal Investigation. This study uses normative and empirical juridical research methods, combining analysis of legal documents and in-depth interviews with stakeholders involved, including law enforcement officials, victims, and NGOs involved in migration issues. The results show that although there is a legal framework that includes the Migrant Worker Protection Law and the Human Rights Law, there are still weaknesses in its implementation. The main obstacles identified include limited resources, ineffective interagency coordination, and low legal awareness among migrant workers. Based on these results, the suggestions submitted include increasing the allocation of resources for the Directorate of Criminal Investigation to strengthen investigations and enforcement, improve the inter-agency coordination system, and increase education programs for the public about their rights as migrant workers. This advice is expected to help strengthen human rights protections for Indonesian migrant workers who are sent illegally.*

Keywords: *Juridical Analysis, Human Rights Protection, Indonesian Migrant Workers.*

1. INTRODUCTION

The problem of employment in Indonesia is that the need for workers will continue to increase compared to the number of jobs available. This causes a lot of unemployment throughout the country. The problem of labor inequality in Indonesia causes job seekers to prefer to become foreign migrants or work abroad rather than in Indonesia. The right to work is guaranteed by the Constitution in Indonesia. Every citizen has the right to work and a decent living for humanity, as stated in Article 27 Paragraph (2) of the 1945 Constitution of the Republic of Indonesia. As a result, as a real result of this problem, the Indonesian government protects and fulfills the need for work for all its citizens who want to work and have the ability to do so. According to Article 1 number 2 of Law Number 13 of 2013 concerning Manpower, a worker is a person who does work to produce goods or services that are beneficial to individuals and society. This article also explains that manpower is related to manpower both before, during, and after. In addition, employees are divided into educated workers and uneducated workers.

Law Number 39 of 2004 concerning the Placement and Protection of Indonesian Migrant Workers Abroad (PPTKILN) was replaced by Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers (PPMI). Presidential Regulation Number 90 of 2019 concerning the Indonesian Migrant Worker Protection Agency was then enacted. This regulation changed the National Agency for the Placement and Protection of Indonesian Migrant Workers (BNP2TKI) to the Indonesian Migrant Worker Protection Agency (BP2MI). This organization was created to demonstrate the Indonesian government's commitment to improving protection for Indonesian migrant workers working abroad. According to Article 1 number 2 of Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers, Indonesian Migrant Workers (PMI) are every Indonesian citizen who will, is, or has done work with wages outside the territory of the Republic of Indonesia, while Prospective Indonesian Migrant Workers (CPMI) are every Indonesian worker who meets the requirements as a job seeker and is registered with a Government Agency.

The problems faced by Indonesian migrant workers who will work abroad are related to human rights for survival and well-being. Many people are attracted to work abroad through unofficial channels or illegal intermediaries because it is very easy to get a job, without the need for official documents and proper job training, and then the selection process for those who want to work abroad. Most of the time, illegal brokers send candidates Indonesian migrant workers through hidden ports that cannot be monitored by law enforcement. According to Article 69 of Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers, a person is prohibited from placing Indonesian migrant workers abroad. In addition, Article 81 expressly states that a person who places Indonesian migrant workers abroad can be punished with a maximum imprisonment of 10 (ten) years and a maximum fine of IDR 15,000,000,000. In the provisions of Article 49, the rules governing the placement of Indonesian migrant workers abroad for agencies and companies that place Indonesian migrant workers for the benefit of their own companies are referred to as brokers or individuals who do not have the authority to place Indonesian migrant workers.

The Directorate of General Criminal Investigation of the Riau Islands Police (Kepri) plays an important role in handling criminal cases related to Indonesian Migrant Workers (PMI), especially in efforts to combat the practice of sending workers illegally. In 2022 and 2023, there was an increase in both the number of cases and the number of victims involved

in sending migrant workers illegally. This indicates an increasingly complex challenge in overcoming transnational crimes that not only harm individuals economically, but also have the potential to violate the human rights of these migrant workers. The increasing number of cases and victims from 2022 to 2023 shows the importance of an in-depth analysis of how the legal system and human rights protection policies for Indonesian migrant workers in Indonesia, especially in the Riau Islands region, are implemented and improved. The background of the thesis research entitled "Legal Analysis of Human Rights Protection for Indonesian Migrant Workers Sent Illegally (Research Study at the Directorate of Criminal Investigation of the Riau Islands Police)" is very relevant in this context.

Based on the background description above, the author raises several problems that will be discussed further. The problems are as follows:

1. How are the legal arrangements for protecting human rights for Indonesian migrant workers who are sent illegally?
2. How is the implementation of human rights protection for Indonesian migrant workers who are sent illegally?
3. What are the obstacles and solutions to protecting human rights for Indonesian migrant workers who are sent illegally?

Based on the formulation of the problem stated above, it can be seen that the objectives of this research are:

1. To find out and analyze the legal arrangements for the protection of human rights for Indonesian migrant workers who are sent illegally.
2. To find out and analyze the implementation of human rights protection for Indonesian migrant workers who are sent illegally.
3. To find out and analyze the obstacles and solutions to the protection of human rights for Indonesian migrant workers who are sent illegally.

2. LITERATURE REVIEW

Human Rights (HAM) are basic rights inherent in every individual as a human being without any discrimination, which must be respected, protected, and cannot be revoked by anyone. HAM covers various aspects, starting from the right to life, the right to freedom of speech, the right to education, and others. The concept of HAM is based on the universal principles of equality, freedom, and human dignity. According to John Locke, as one of the influential philosophers in human rights thinking, Locke stated that every

individual has natural rights given by God, which include the right to life, liberty, and property. Meanwhile, according to Thomas Jefferson, in the United States Declaration of Independence, Jefferson emphasized that "all men are created equal," with inalienable rights, including "life, liberty, and the pursuit of happiness." And according to Amartya Sen, an economist and philosopher from India, Sen highlights the importance of freedom as the core of human rights, where individual freedom to choose and participate in community life is essential.

. Meanwhile, Thomas Jefferson, through his words in the United States Declaration of Independence, had a significant impact on the understanding of human rights at the global level. Jefferson asserted that all human beings are created equal and are endowed by their Creator with certain unalienable rights, including the rights to life, liberty, and the pursuit of happiness. This statement marked the importance of recognizing the equal rights of every individual and became the basis for many constitutions and human rights documents around the world. According to the laws and regulations in force in Indonesia, human rights are regulated and protected by the 1945 Constitution of the Republic of Indonesia and several other laws and regulations. Articles 28A to 28J of the 1945 Constitution have mandated various human rights including the right to life, the right to personal freedom, the right to justice, and others.

Indonesia is also a party to various international conventions on human rights, such as the Universal Declaration of Human Rights (UDHR) of 1948, which affirms its commitment to universal human rights principles. Respect, protection, and fulfillment of human rights are important foundations in building a just and dignified human civilization. Therefore, every country, including Indonesia, strives to realize it through various regulations and policies. In Indonesia, the understanding and protection of Human Rights (HAM) is explicitly regulated in the 1945 Constitution (UUD) and is further explained in various other laws and regulations, including Law Number 39 of 1999 concerning Human Rights. Human rights protection in Indonesia is based on universal human rights principles recognized in various international declarations and conventions, while adapting them to the national social, cultural, and legal context. Law Number 39 of 1999 concerning Human Rights is an important milestone in the history of human rights protection in Indonesia.

The concept of Human Rights (HAM) adopted in Indonesian positive law is an integration of universal human rights principles with the cultural and social values of Indonesian society. This conceptual foundation is embedded in the 1945 Constitution

(UUD), which explicitly recognizes and guarantees the basic rights of its citizens. The adoption of the concept of human rights in positive Indonesian law is also reflected in Law Number 39 of 1999 concerning Human Rights. This law is the legislative basis that specifically regulates basic rights and freedoms guaranteed by the state, law enforcement procedures for human rights violations, and the establishment of independent institutions such as the National Human Rights Commission (Komnas HAM) which plays a role in monitoring and investigating cases of human rights violations.

Indonesian migrant workers are an important group in the economic and social dynamics both at the national and international levels. They generally seek employment opportunities abroad to improve the welfare of their families in Indonesia, sending significant remittances that contribute to the national economy. The jobs taken by Indonesian migrant workers are very diverse, including domestic, construction, plantation, health care, and manufacturing sectors. Their main destinations include countries in the Middle East such as Saudi Arabia and the United Arab Emirates, as well as countries in East and Southeast Asia such as Malaysia, Singapore, Hong Kong, Taiwan, and South Korea. The Indonesian government, through the Ministry of Manpower and other relevant institutions, has taken various steps to improve protection for migrant workers. This includes negotiating and signing bilateral agreements with destination countries to ensure the rights of Indonesian migrant workers are protected, such as the right to decent wages, safe working conditions, and protection from abuse and exploitation.

Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers is a legal basis that provides a comprehensive framework for the protection of migrant workers, from the recruitment process, placement, to repatriation and reintegration into society. Despite efforts to improve protection, Indonesian migrant workers still face various challenges and risks, including fraud by recruitment agents, physical and psychological violence, poor working conditions, and legal problems due to lack of understanding of laws and regulations in the destination country. Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers (PMI Law) is an important milestone in the Indonesian government's efforts to strengthen protection for its migrant workers. This law is designed to provide a comprehensive legal framework to protect the rights of Indonesian migrant workers from the recruitment, placement, to repatriation and reintegration stages.

The law requires clear employment contracts and a good understanding of the rights and obligations between migrant workers and employers. This includes details on working conditions, wages, working hours, and the right to leave. The law also tightens supervision of migrant worker recruitment agencies to prevent fraud and extortion, and to ensure that migrant workers are not burdened with unreasonable recruitment fees. There are also provisions for the reintegration of migrant workers into Indonesian society, including training and support to start a business or find employment after returning home. Law No. 18 of 2017 on the Protection of Indonesian Migrant Workers marks the serious commitment of the Indonesian government to strengthen the protection of the rights of its migrant workers. Effective implementation of this law requires close cooperation between the government, recruitment agencies, destination countries, and non-governmental organizations engaged in migrant worker rights advocacy. Thus, the PMI Law can serve as an effective tool to ensure the justice, safety, and welfare of Indonesian migrant workers around the world.

Humans and their laws are two things that cannot be separated in life in this world. This is because without a law that regulates human behavior, there will be chaos in human life (society). The task of community law is to implement social control mechanisms to eliminate unwanted social waste in society. so that the law is responsible for the existence of the group. Legal protection aims to integrate and coordinate the interests of society, because in the transmission of the benefits of Protection some interests can be achieved by limiting other interests. Legal interests are the management of human rights and interests so that the law has the highest authority to determine human interests that must be controlled and protected. The legal protection offered to the Indonesian people is an implementation of the principles of recognition and protection of human dignity based on Pancasila and the supremacy of law. Everyone has the right to legal protection. Almost all legal relationships must be protected by law. Legal protection is protection provided by the state through its law enforcement officers to the people and individuals who are victims of crime or who will become victims of crime.

3. RESEARCH METHOD

The specification of this research only conducts analysis only up to the level of synthesis, namely analyzing and presenting facts systematically so that they can be easier to understand and conclude. Research Specification or can be said Type of research is a choice

of type of research format in researching research objects in the field of law studied by researchers. The specification and/or type of this thesis research is normative legal research while combining it with sociological (empirical) legal research using secondary data obtained directly from the first source through field research through interviews and primary data as a source/information material in the form of primary legal materials, secondary legal materials and tertiary legal materials.

The approach method in this study is a combination of the normative approach "legal research" with the empirical approach method "Juridical Sociologies". The research mechanism with this combined approach method is carried out by describing the explanation of the inductive research method leading to the deductive method and vice versa. This is done by the author to help explain the relationship between research variables and research objects so that it can produce an understanding that is very helpful for readers, especially researchers and academics.

The location of this research was carried out in the Riau Islands Province, precisely at the Ditreskrimum Polda Riau Islands. The determination of the location was determined based on the number of public reports related to criminal acts of Indonesian Migrant Workers (PMI). And also because the Riau Islands are an area that has the largest water area in Indonesia and directly borders other countries such as Singapore, Malaysia, Cambodia and the Philippines. The population is all law enforcement officers and the community in the jurisdiction of the Riau Islands Regional Police (Polda). As for the sample used by the author is a random technique, namely with details of 5 (five) police officers who are members of the Ditreskrimum Polda Kepri consisting of Kasat and members of the Ditreskrimum, 3 (three) people who are victims of criminal acts of Indonesian Migrant Workers.

4. RESULTS AND DISCUSSION

A. Legal Regulations on the Protection of Human Rights for Indonesian Migrant Workers Sent Illegally

Legal regulations related to the protection of human rights (HAM) for Indonesian migrant workers who are sent illegally can be seen in several main regulations, namely:

- 1) Law Number 18 of 2017 concerning ⁴ Protection of Indonesian Migrant Workers (PPMI)

Definition of Indonesian Migrant Workers (PMI) according to Article 1 of Law Number 18 of 2017 concerning Protection of Indonesian Migrant Workers is an Indonesian citizen who will, is, or has worked outside the territory of the Republic of Indonesia and received wages. This definition accommodates all phases of a migrant worker's journey, from planning, while in the destination country, to after returning home.

- 2) Law Number 39 of 1999 concerning Human Rights (HAM Law)

Law Number 39 of 1999 on Human Rights (HAM Law) provides a broad legal framework for the protection of human rights in ⁸ Indonesia, including the rights of Indonesian migrant workers. This law provides a strong legal basis for addressing human rights violations against illegally sent migrant workers, through several specific articles that explain the fundamental rights that must be protected.

- 3) Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 ¹⁰ concerning Protection of Witnesses and Victims

Law Number 31 of 2014 on Amendments to Law Number 13 of 2006 on ¹¹ Protection of Witnesses and Victims strengthens the existing legal framework by providing further protection for witnesses and victims, including Indonesian migrant workers who are victims in cases of illegal deployment. This law aims to provide security guarantees and assist recovery for victims, which is especially important in the case of migrant workers who often experience trauma and great losses due to illegal practices.

B. Implementation of Human Rights Protection for Indonesian Migrant Workers Sent Illegally

The handling of cases of Indonesian migrant workers sent illegally by the Riau Islands Police (Kepri) Criminal Investigation Directorate reflects the challenges and efforts faced in protecting human rights. Existing reports show ¹¹ an increase in the number of cases and victims involved in the illegal sending of migrant workers from 2022 to 2023. In 2022, there were 16 cases with 20 suspects and 151 victims, while in 2023, the number increased to 91 cases with 138 suspects and 366 victims. This increase indicates that this phenomenon is not only ongoing but also increasingly complex, requiring stronger and more systematic intervention. The increase in cases

and victims involved in illegally sending Indonesian migrant workers from 2022 to 2023 can be attributed to several main factors. One of the main causes is the high demand for cheap labor abroad, especially in sectors such as construction, agriculture, and domestic services, which are often not sufficiently protected by labor regulations in the destination countries. This creates opportunities for illegal recruitment agencies to take advantage of workers seeking better opportunities abroad.

In addition, the lack of information on legal and safe migration procedures for prospective migrant workers worsens the situation, leaving them vulnerable to fraud and exploitation by illegal agents who promise jobs abroad without meeting the necessary legal requirements. Another contributing factor to this increase is the limited supervision and enforcement of employment agencies. Despite tightened regulations, there are still shortcomings in the enforcement and monitoring of labor placement agencies. Many of these agencies operate without proper licensing or violate existing regulations without significant fear of sanctions. This is often combined with corruption and a lack of transparency in the recruitment process. As a result, many migrant workers are sent abroad without adequate legal protection, increasing their risk of abuse, exploitation, and poor working conditions.

The Criminal Investigation Directorate of the Riau Islands Police plays an important role in handling and protecting migrant workers who are sent illegally. The main function of this unit is to conduct investigations, inquiries, and take action against perpetrators of illegal sending of migrant workers. Cooperation with other related institutions, including the Ministry of Manpower, employment agencies, and non-governmental organizations, is vital in this effort. The Criminal Investigation Directorate also plays a role in educating the public about their rights as migrant workers and the legal and safe procedures for working abroad. The Criminal Investigation Directorate of the Riau Islands Police (Kepri) plays a crucial role in handling and protecting Indonesian Migrant Workers (PMI) who are sent illegally. As a police unit tasked with criminal investigations, the Criminal Investigation Directorate of the Riau Islands Police focuses on eradicating illegal labor sending activities that often involve serious violations of workers' rights. They investigate cases involving illegal recruitment agencies and often work together with other agencies to identify networks involved in human trafficking and worker exploitation.

C. Obstacles and Solutions to Human Rights Protection for Indonesian Migrant Workers Sent Illegally

The protection of human rights for Indonesian migrant workers who are sent illegally and handled by the Directorate of Criminal Investigation of the Riau Islands Police faces several significant obstacles that affect the effectiveness of intervention and law enforcement. Some of these main obstacles include structural factors, resources, coordination, and public awareness:

One of the main obstacles in protecting migrant workers is the limited resources allocated to the Riau Islands Police Criminal Investigation Directorate. The lack of trained personnel and adequate facilities limits the unit's ability to conduct thorough investigations and manage cases effectively. In addition, the limited technology and equipment needed for modern investigations also reduce efficiency in handling cases of illegal worker deployment.

Migrant worker protection requires strong coordination between various government entities and non-governmental institutions, including the Ministry of Manpower, law enforcement agencies, and human rights organizations. However, there are often barriers to communication and collaboration between agencies, resulting in slow and fragmented responses to cases involving migrant workers. This creates loopholes where perpetrators can escape law enforcement, and victims do not receive adequate protection.

Many migrant workers do not have sufficient knowledge about their rights or the legal procedures for working abroad. This ignorance is often exploited by illegal recruitment agencies. The Directorate of Criminal Investigation's efforts to educate the public are often hampered by limited reach and a lack of educational materials that are easily accessible to a diverse target audience, both in terms of language and culture. Those who decide to report often face lengthy and complicated legal processes, which can be a further barrier to access to justice.

Addressing these barriers requires a comprehensive approach involving increased resources, improved coordination between agencies, and more effective education and advocacy programs. It is also important to strengthen protection mechanisms that can accommodate the specific needs of migrant workers, as well as increase their trust in the legal protection system. Addressing the barriers to human rights protection for Indonesian migrant workers handled by the Riau Islands Police

Criminal Investigation Directorate requires a series of comprehensive and integrated solutions, involving various parties from the government, non-governmental organizations, and the private sector.

5. CONCLUSION AND SUGGESTION

A. Conclusion

Based on the discussion in the previous chapter, the following conclusions can be drawn:

- 1) Legal arrangements for the protection of human rights for Indonesian migrant workers who are sent illegally have been regulated through various laws that provide a legal framework to protect their rights. Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers explicitly prohibits the illegal sending of migrant workers and stipulates strict sanctions for violators through Articles 69 and 81, which regulate the prohibition and sanctions for those involved in illegal placement. Meanwhile, Law Number 39 of 1999 concerning Human Rights through Articles 5, 9, 14, and 15, underlines fundamental rights such as personal security, freedom from torture, and protection from degrading treatment. The implementation of these laws aims to ensure that every migrant worker receives adequate protection against exploitation and other violations, reflecting the state's commitment to upholding the human rights of its citizens working abroad.
- 2) The implementation of human rights protection for Indonesian migrant workers sent illegally and handled by the Riau Islands Police Criminal Investigation Directorate faces a number of challenges that affect its effectiveness. Although there is a strong legal framework through laws such as Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers and Law Number 39 of 1999 concerning Human Rights, implementation in the field is often not optimal. Factors such as limited resources, ineffective coordination between institutions, and low legal awareness among migrant workers significantly hamper the ability of the Criminal Investigation Directorate to respond quickly and effectively to cases. Difficulties in supervising recruitment agencies and lack of support from the wider legal system also contribute to inadequate protection. As a result, despite efforts made, many migrant workers are still vulnerable to exploitation and human rights violations.

- 3) Human rights protection for Indonesian migrant workers sent illegally faces a number of significant obstacles, including limited resources, ineffective coordination between institutions, and low legal awareness among workers. To overcome these obstacles, solutions include increasing budget allocations to equip the police with more personnel and adequate technology, improving cooperation and coordination between government agencies and with international institutions, and increasing public education on workers' rights and legal migration procedures. This approach is expected to increase the effectiveness of tackling cases of illegal migration and ensure that their human rights are better protected.

B. Suggestion

From this conclusion, the author can provide several suggestions, namely:

- 1) It is recommended that the Riau Islands Police improve cross-sector cooperation with related agencies such as the Ministry of Manpower and non-governmental organizations to accelerate the process of handling cases and recovering victims.
- 2) It is recommended that the public encourage victims or witnesses of illegal worker deployment to proactively report to the relevant authorities. Providing easy and safe access to report can help the police identify and prosecute perpetrators.
- 3) It is recommended that the Government revise and strengthen the laws governing the deployment and placement of migrant workers to close loopholes exploited by illegal agent.

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